

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sruthi Venigalla	Team: Team # 3	CCRB Case #: 201308483	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/15/2013 5:00 PM, Saturday, 02/16/2013	Location of Incident: 146 Bay Street and 122nd Precinct stationhouse	Precinct: 122	18 Mo. SOL 8/15/2014	EO SOL 8/15/2014	
Date/Time CV Reported Thu, 09/12/2013 10:51 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/12/2013 10:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Aldo Yubini	08600	939729	122 PCT
2. Officers			122 PCT
3. POM Thomas Ulitto	10788	945069	122 PCT
4. SGT Michael Lazzara	00473	936923	122 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Dana Nunez	21698	918085	122 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Aldo Yubini	Abuse: At 146 Bay Street in Staten Island, PO Aldo Yubini did not obtain medical treatment for § 87(2)(b)	
B.POM Thomas Ulitto	Abuse: At the 122nd Precinct stationhouse, PO Thomas Ulitto did not obtain medical treatment for § 87(2)(b)	
C.SGT Michael Lazzara	Abuse: At the 122nd Precinct stationhouse, Sgt. Michael Lazzara did not obtain medical treatment for § 87(2)(b)	
D. Officers	Abuse: Officers did not obtain medical treatment for § 87(2)(b)	

Case Summary

On September 19, 2013, § 87(2)(b) filed this complaint via telephone with the Civilian Complaint Review Board (CCRB), upon the disposition of his criminal court case. (Encl. 1E – 1F)

On February 15, 2013 at approximately 4:30 p.m., § 87(2)(b) was arrested at 146 Bay Street in Staten Island by PO Aldo Yubini and PO Thomas Ulitto of the 122nd Precinct. He was transported to the 122nd Precinct stationhouse, where he was placed in a holding cell until February 16, 2013 before being transported to Staten Island Central Booking. The following allegations resulted:

- **Allegation A – Abuse of Authority: At 146 Bay Street in Staten Island, PO Aldo Yubini did not obtain medical treatment for § 87(2)(b)**
§ 87(2)(g)
[REDACTED]
- **Allegation B – Abuse of Authority: At the 122nd Precinct stationhouse, PO Thomas Ulitto did not obtain medical treatment for § 87(2)(b)**
- **Allegation C – Abuse of Authority: At the 122nd Precinct stationhouse, Sgt. Michael Lazzarra did not obtain medical treatment for § 87(2)(b)**
§ 87(2)(g)
[REDACTED]
- **Allegation D – Abuse of Authority: Officers from the 122nd Precinct did not obtain medical treatment for § 87(2)(b)**
§ 87(2)(g)
[REDACTED]

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) *a Hispanic man who stands 6 feet tall and weighs 220 pounds with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.* § 87(2)(b)
[REDACTED]

CCRB Testimony

On October 2, 2013, § 87(2)(b) was interviewed at the CCRB. His testimony is summarized below (Encl. 2A – 2B).

On February 15, 2013, at approximately 10:00 a.m., in the vicinity of Bradley Avenue in Staten Island, § 87(2)(b) was arguing with a woman that he identified as the mother of his children, while she was seated in her vehicle. § 87(2)(b) who was several feet away from her vehicle, approached the front of the vehicle when the woman attempted to “run him over,” causing § 87(2)(b) to lift off the ground and onto the hood of the car, until she drove to the corner of Bradley Avenue and Holden Boulevard. At the corner, § 87(2)(b) removed himself from the hood of the car, and she drove away.

§ 87(2)(b) who was wearing sweatpants, pulled his left pant leg up past his knee and observed a bruise, approximately four to six inches wide, just below the knee. § 87(2)(b)

limped back towards Bradley Avenue, where he requested that another woman, whom he identified as his older daughter, to drive him to a parole office located on Bay Street. § 87(2)(b)

§ 87(2)(b) is required to report any altercations he is involved in to his parole officer.

§ 87(2)(b)'s daughter dropped him off at the parole office at approximately 12:00 p.m., but did not enter the office with him. At the office, § 87(2)(b) discussed the altercation with his parole officer, and was at the office for what § 87(2)(b) assumed was four to five hours, before PO Aldo Yubini and his partner, identified by the investigation as PO Thomas Ulitto, both of the 122nd Precinct, arrived at the office.

PO Yubini, asked § 87(2)(b) "What happened to you? What happened to your leg?" § 87(2)(b) did not know how PO Yubini was made aware of his injury. § 87(2)(b) said to PO Yubini, "I got hit by a car. I need to go to the hospital for this." PO Yubini stated, "Okay, but we need to get you processed first, then we'll take care of that," referring to § 87(2)(b) injury. § 87(2)(b) was handcuffed and placed into a black unmarked vehicle parked outside of the parole office, which PO Ulitto drove. § 87(2)(b) stated that PO Ulitto and the parole officer were not present during his conversation with PO Yubini, and that he did not have any conversation with PO Ulitto in the parole office or within the vehicle.

When they arrived at the stationhouse, § 87(2)(b) said to a sergeant, identified by the investigation as Sgt. Lazzara, "I need to go to a hospital. I got hit by a car, and I need medical attention." Sgt. Lazzara replied, "They will take care of you", referring to PO Yubini and PO Ulitto. While § 87(2)(b) was being fingerprinted and processed, he asked PO Ulitto if he could go to a hospital. PO Ulitto replied that he would be taken there after being processed. § 87(2)(b) was placed in cell with another individual, whom he could not recall, but he did not have further interaction with PO Yubini and PO Ulitto again.

§ 87(2)(b) believed he was held within the cell at the stationhouse for approximately nine hours, before he was transported to Central Booking, at a time he could not recall, on February 16, 2013, by two unidentified officers in a marked vehicle, the number of which he could not recall. While being transported, he asked one of the officers, to take him to a hospital first. The officer replied, "I'm just doing my job, doing what I've been told. If you need to go to a hospital, ask them at booking, and they'll take care of you." § 87(2)(b) did not have any interaction with the officer's partner.

When they reached Central Booking at a time that § 87(2)(b) could not recall, § 87(2)(b) was processed and placed in another cell. § 87(2)(b) believed it was approximately 3 p.m. when his case was called before a judge. However, he refused to see the judge because of his injuries. § 87(2)(b) was held within the cell till the morning of February 17, 2013 when an unidentified officer stated that if he didn't see the judge that day, he would be held until after an upcoming holiday. § 87(2)(b) stated that he did not care, and wanted to see a doctor first. Another unidentified officer, approached his cell and called EMT, who arrived and transported him to § 87(2)(b), where he was seen and diagnosed with a "contusion". § 87(2)(b) was arraigned and then released on § 87(2)(b).

NYPD Statement(s):

Subject Officer: PO ALDO YUBINI

- PO Yubini is a Hispanic man who was § 87(2)(b) old at the time of the incident. He is 5'10" tall, weighs 185 pounds, and has black hair and brown eyes.
- On February 15, 2013, PO Yubini was assigned to Anti-Crime in RMP# 825, from 9:30 a.m. to 6:05 p.m., in plainclothes, and partnered with PO Thomas Ulitto.

Memo Book

At 4:30 p.m., PO Yubini responded to a parole office on 146 Bay Street. At 5:30 p.m., PO Yubini transported one male from the parole office to the 122nd Precinct stationhouse (Encl. 3A – 3B).

Arrest Paperwork

PO Yubini was the arresting officer for § 87(2)(b) § 87(2)(b) was charged with reckless endangerment § 87(2)(b) (Encl. 3C -3J)

CCRB Testimony

PO Yubini was interviewed at the CCRB on October 23, 2013 (Encl. 3K -3L).

On February 15, 2013, PO Yubini was driving at a location he could not recall, with his partner, PO Ulitto, when he received a cellphone call from his supervisor, identified by the investigation as Sgt. Lazzara, instructing him to respond to a parole office located at 146 Bay Street in Staten Island, NY.

When they arrived at the parole office, PO Yubini and PO Ulitto were directed to a parole supervisor who informed them that the parolee, § 87(2)(b) was already at the office. PO Yubini stated that he was familiar with § 87(2)(b) because of his history of arrests. The woman who § 87(2)(b) identified as the mother of his children, filed a complaint against § 87(2)(b) and informed PO Yubini of several instances during a five day period in which § 87(2)(b) § 87(2)(b) harassed her, physically assaulted her and threatened to harm her. After speaking to the woman for approximately twenty to thirty minutes, PO Yubini spoke to § 87(2)(b) who was seated in another room. PO Yubini could not recall if PO Ulitto accompanied him, or if he spoke to any other individuals after speaking to the woman.

PO Yubini said to § 87(2)(b) “Listen, you gotta go,” to which, § 87(2)(b) replied, “I shouldn’t be going anywhere! What about what she did?” PO Yubini continued to say, “You’re under arrest,” and § 87(2)(b) said, “Well I got hurt.” PO Yubini did not observe any injuries on § 87(2)(b) and did not have any discussion with the woman or parole supervisor, regarding any injuries § 87(2)(b) may have sustained. PO Yubini replied, “You sure you’re hurt? Listen, I’ll get you an ambulance, but you’re still going to be under arrest.” § 87(2)(b) disregarded PO Yubini and said, “Alright, whatever. Let’s go,” and was compliant in being handcuffed. PO Yubini also observed that § 87(2)(b) did not have any trouble walking. PO Yubini and PO Ulitto drove back to the 122nd Precinct stationhouse with § 87(2)(b) and during the ride back, § 87(2)(b) did not say that he needed to get to the hospital.

PO Yubini, PO Ulitto and § 87(2)(b) reached the stationhouse at approximately 5:30 p.m. PO Yubini did not recall the desk officer at the time, but did not observe § 87(2)(b) request medical attention or discuss injury with any officer at the stationhouse. § 87(2)(b) was then placed in a holding cell while PO Yubini began processing arrest paperwork. PO Yubini could not recall if there was another prisoner in the cell or how long § 87(2)(b) was held in the cell. § 87(2)(b) did not request medical attention or discuss his injuries with any officer at the stationhouse, and PO Yubini did not have further interaction with § 87(2)(b) after the arrest paperwork was processed. PO Yubini could not recall if there was another prisoner in the cell with § 87(2)(b) and could not recall who transported § 87(2)(b) to Staten Island Central Booking.

Subject Officer: PO THOMAS ULITTO

- PO Ulitto is a white man who was § 87(2)(b) old at the time of the incident. He is 6’ tall, weighs 190 pounds, and has brown hair and brown eyes.
- On February 15, 2013, PO Ulitto was assigned to Anti-Crime in RMP# 825, from 9:30 a.m. to 6:05 p.m., in plainclothes, and partnered with PO Aldo Yubini.

Memo Book

- 16:30 – 84 at 146 Bay Street parole office.
- 17:30 – Transported one male to 122nd Precinct stationhouse and one under at location (Encl. 3K -3L).

CCRB Testimony

PO Ulitto was interviewed at the CCRB on November 4, 2013 (Encl. 3M -3N).

On February 15, 2013, at a time that PO Ulitto could not recall, PO Yubini was driving a marked vehicle when he received a phone call from the precinct stationhouse instructing them to respond to a parole office. PO Ulitto did not recall who called from the precinct or how the precinct received information regarding the incident at the parole office. PO Yubini only informed PO Ulitto about “a situation between a parolee and a victim,” and they arrived at the parole office approximately fifteen minutes after receiving the phone call.

PO Ulitto and PO Yubini entered the parole office together and were directed by to a parole supervisor, as well as, a woman who had a complaint against § 87(2)(b). Although PO Ulitto was present for the conversation between PO Yubini and the woman, and completed a complaint report, he could recall the details of the conversation. PO Ulitto had no further discussion with the woman, who appeared calm, or the parole officer, when PO Yubini left to place § 87(2)(b) under arrest. PO Ulitto remained with the woman.

When PO Ulitto rejoined PO Yubini and § 87(2)(b) § 87(2)(b) was already handcuffed, so PO Ulitto assisted PO Yubini in removing § 87(2)(b) from the parole office and placing him in their vehicle. PO Ulitto noted that § 87(2)(b) was calm and compliant, and did not observe any injuries on § 87(2)(b) or any difficulty in his ability to walk. During the trip to the 122nd Precinct stationhouse, PO Ulitto did not have any further discussion with PO Yubini or § 87(2)(b) regarding the altercation between § 87(2)(b) and the woman; if § 87(2)(b) needed medical attention; or if § 87(2)(b) sustained any injuries.

PO Ulitto could not recall who the desk officer was at the time that they reached the precinct, and could not recall § 87(2)(b) saying to any officer that he needed to be taken to a hospital for his injuries. PO Ulitto did not know who processed § 87(2)(b)'s arrest paperwork, although he assumed it was PO Yubini. PO Ulitto did not observe § 87(2)(b) in a holding cell, nor did he know who transported him to Central Booking, because as soon as he came back to the stationhouse, PO Ulitto was called upon to respond to another incident location with another officer whom he could not recall. PO Ulitto had no further interaction with him after leaving the stationhouse.

Subject Officer: SGT. MICHAEL LAZZARRA

- *Sgt. Lazzarra is a white man who was § 87(2)(b) old at the time of the incident. He is 5'7" tall, weighs 185 pounds, and has brown hair and brown eyes.*
- *On February 15, 2013, Sgt. Lazzarra was working from 9:30 a.m. to 6:15 p.m., in plainclothes and assigned to Anti-Crime in an unmarked vehicle with PO John Mattina.*

Memo Book

- 18:00 – § 87(2)(b) under by PO Yubini (Encl. 3R- 3S).

CCRB Testimony

Sgt. Lazzarra was interviewed at the CCRB on January 10, 2013 (Encl. 3T -3U).

On February 15, 2013, Sgt. Lazzarra received a phone call regarding § 87(2)(b) from Sgt. Christopher Harrington, who was working as a field intelligence officer. Sgt. Harrington informed Sgt. Lazzarra of § 87(2)(b)'s parole violation and the charges of

aggravated harassment against him. Sgt. Lazzarra called PO Aldo Yubini, who was working with PO Thomas Ulitto, and asked him to arrest § 87(2)(b).

Sgt. Lazzarra first observed PO Yubini and PO Ulitto at the 122nd Precinct stationhouse at approximately 6:30 p.m. He did not see § 87(2)(b) with them, as § 87(2)(b) was already placed within a holding cell. Sgt. Lazzarra did not see who placed § 87(2)(b) within the holding cell. Sgt. Lazzarra also reviewed PO Yubini's arrest paperwork, which PO Yubini processed, and approved it before leaving the precinct stationhouse again to resume patrol. Sgt. Lazzarra had no interaction with § 87(2)(b) at the stationhouse, and did not recall seeing § 87(2)(b) the following day.

Sgt. Lazzarra was provided the details of the incident, which he could not recall. He was not informed of any force that may have been used on § 87(2)(b) or any injuries that § 87(2)(b) may have sustained, or that he requested medical attention. Sgt. Lazzarra did not know who brought § 87(2)(b) to Central Booking.

Witness Officer: PO DANA NUÑEZ

- PO Nuñez is a Hispanic man who was § 87(2)(b) old at the time of the incident. He is 5'6" tall, weighs 180 pounds, and has brown hair and brown eyes.
- On February 15, 2013, Sgt. Lazzarra was working from 1:00 p.m. to 9:23 p.m., in uniform as an arrest processing officer at the 122nd Precinct stationhouse.

Memo Book

PO Nuñez did not have any memo book entries regarding the incident (Encl. 3O-3P).

CCRB Testimony

PO Nuñez was interviewed at the CCRB on December 4, 2013 (Encl. 3Q -3R).

PO Nuñez could not recall assisting PO Yubini or PO Ulitto with § 87(2)(b)'s arrest, and he could not recall processing an arrest for an injured prisoner at the stationhouse. He could not recall the desk officer at the time, and he did not have this information in his memo book. PO Nuñez stated that he sometimes transports prisoners to a holding center at the 120th Precinct, and that he could not recall transporting an injured prisoner from the stationhouse. PO Nuñez was provided as photograph of § 87(2)(b) as well as, incident details, neither of which he could recall.

Medical Records

The medical records for § 87(2)(b) show that he was diagnosed with a contusion on § 87(2)(b) (See privileged file.).

NYPD Document(s)

Roll Call

The 122nd Precinct Roll Call for Tour 3 on February 15, 2013 does not list the desk sergeant. Additionally, neither this roll call, nor the 122nd Precinct Roll Call for Tour 1 on February 16, 2013 indicates the officers who transported § 87(2)(b) to Staten Island Central Booking (Encl. 4B – 4L).

Command log

The Command Log indicates that on February 15, 2013, PO Yubini arrested § 87(2)(b) at 146 Bay Street at 5:15 p.m. for § 87(2)(b). However, the Command Log does not indicate which officer transported § 87(2)(b) to Staten Island Central Booking (Encl. 4A).

Other Evidence

Prisoner Movement Slip

A Prisoner Movement Slip on February 15, 2013 and February 16, 2013 for § 87(2)(b) [REDACTED] which was requested on October 10, 2013 was not available. (Encl. 7A).

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- The undersigned investigator submitted a Freedom of Information Law request regarding whether a notice of claim was filed on April 8, 2014, and is pending a response.

Civilian(s) Criminal History

- **[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]**

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (Encl1D).

Subject Officer(s) CCRB History

- PO Yubini has been a member of the NYPD for eight years and there are no substantiated CCRB allegations against him. (encl. 1A).
- PO Ulitto has been a member of the NYPD for six years and there are no substantiated CCRB allegations against him. (encl. 1B).
- Sgt. Lazzarra, a member of the service for nine years, has two substantiated allegations of discourteous language and improper frisking under CCRB case number 201203464, for which Sgt. Lazzarra received charges. (Encl. 1C).

Conclusion

Identification of Subject Officer(s)

PO Yubini and PO Ulitto admitted to interacting with § 87(2)(b) § 87(2)(b) stated that when he walked into the 122nd Precinct stationhouse, he interacted with a sergeant in uniform who was described as a stocky white man with brown hair, who appeared to be in his early forties and approximately 5'7". Based on § 87(2)(b) pedigree information, the investigation identified the subject officer as Sgt. Lazzarra, who also approved PO Yubini's arrest. § 87(2)(b) § 87(2)(b) also stated he was transported to Central Booking the following day, in a marked vehicle by two uniformed officers. § 87(2)(b) described the transporting officers as a black woman of average build, and a white man with black hair, who appeared to be in his mid-twenties, weighed 250 pounds and stood 6'3" tall. No officers matching § 87(2)(b)'s description were assigned to a marked vehicle together.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: At 146 Bay Street in Staten Island, PO Aldo Yubini did not obtain medical treatment for § 87(2)(b)

It is undisputed that § 87(2)(b) and PO Yubini had a discussion about § 87(2)(b)'s injury. § 87(2)(b) alleged that when he said, "I got hit by a car. I need to go to the hospital for this," PO Yubini replied, "Okay, but we need to get you processed first, then we'll take care of that." PO Yubini denied making the statement and stated that when § 87(2)(b) said, "Well I got hurt," PO Yubini replied, "You sure you're hurt? Listen, I'll get you an ambulance, but you're still going to be under arrest." PO Yubini stated that he never called an ambulance because § 87(2)(b) said, "Alright, whatever. Let's go," and in saying so, § 87(2)(b) was opting to be arrested and taken to the stationhouse instead.

According to Patrol Guide Procedure 210-04, the command of arrest shall direct, in non-emergency situations, that prisoners requiring medical, psychiatric or drug addiction treatment, which may result in being admitted to the hospital, be removed to a local hospital for treatment and evaluation.

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Allegation B – Abuse of Authority: At the 122nd Precinct stationhouse, PO Thomas Ulitto did not obtain medical treatment for § 87(2)(b)

Allegation C – Abuse of Authority: At the 122nd Precinct stationhouse, Sgt. Michael Lazzarra did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that when PO Yubini, PO Ulitto and himself arrived at the stationhouse, § 87(2)(b) said to a sergeant, identified by the investigation as Sgt. Lazzarra, "I need to go to a hospital. I got hit by a car, and I need medical attention." Sgt. Lazzarra replied, "They will take care of you", referring to PO Yubini and PO Ulitto. While § 87(2)(b) was being fingerprinted and processed, he asked PO Ulitto if he could go to a hospital. PO Ulitto replied that he would be taken there after being processed.

PO Ulitto denied having a discussion with § 87(2)(b) regarding his injuries. PO Ulitto, as well as, PO Yubini also denied witnessing any conversation between § 87(2)(b) and other officers at the stationhouse. Sgt. Lazzarra denied having any interaction with § 87(2)(b)

§ 87(2)(g)

Allegation D – Abuse of Authority: Officers from the 122nd Precinct did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) stated he was transported to Central Booking the following day, in a marked vehicle by two uniformed officers. § 87(2)(b) described the transporting officers as a black woman of average build, and a white man with black hair, who appeared to be in his mid-twenties, weighed 250 pounds and stood 6’3” tall.

The Command Log entry for § 87(2)(b) and the 122nd Precinct Roll Call for Tour 1 on February 16, 2013 does not indicate the officers who transported § 87(2)(b) to Staten Island Central Booking. No officers on the Roll Call which match § 87(2)(b)'s description were assigned to a marked vehicle together. Additionally, a Prisoner Movement Slip for § 87(2)(b) on February 15, 2013 and February 16, 2013 was not available. PO Nuñez, who was provided a photograph of § 87(2)(b) could not recall transporting him or an injured prisoner from the stationhouse. Sgt. Lazzarra, PO Ulitto and PO Yubini did not know who transported § 87(2)(b) to Central Booking.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date